

1401 Main Street, Suite 900



Phone: (803) 737-0800

jnelson@regstaff.sc.gov

Jeffrey M. Nelson
Chief Legal Officer

October 31, 2018

VIA ELECTRONIC FILING

David Butler, Esquire
 Hearing Officer
 Public Service Commission of South Carolina
 101 Executive Center Drive, Suite 100
 Columbia, South Carolina 29210

Randy Randall
 Chairman
 Public Service Commission of S.C.
 101 Executive Center Drive, Ste 100
 Columbia, South Carolina 29210

Re: **Consolidated Docket Nos.: 2017-207-E; 2017-305-E; and 2017-370-E**
 Use of Depositions as Prefiled Testimony

Dear Hearing Officer Butler and Chairman Randall,

There are two issues raised by SCE&G on the eve of the hearing to disrupt the proceeding. First, SCE&G is asking the Commission to order the deposition of a witness that has been known to SCE&G for more than a year and since its initial petition on August 1, 2017. Yesterday, after the close of business, with a single business day before the start of the hearing that has been set since June, SCE&G is demanding the Commission require all parties to appear for a deposition during the first day of the hearing. This request is manifestly unreasonable and should be rejected.

The real complaint of SCE&G was revealed yesterday for the first time that it wants to take the deposition of the same witness—first scheduled by SCE&G for two days before the hearing and postponed due to no fault of anyone because of the sickness of the witness's personal attorney—before the hearing testimony of two other witnesses, who SCE&G has already deposed. That could have been done months ago. One-week delay in rescheduling the deposition during the first week of the hearing is not prejudicial. The emergency, created by SCE&G because it now says it wants to depose the third-party witness before two ORS witnesses testify in the hearing, should not be imposed on the Commission's hearing schedule or ORS and its witnesses. Of course, if the

Commission wants the ORS witnesses to be called back after the deposition occurs, then that will happen. SCE&G has not even said that will be necessary.

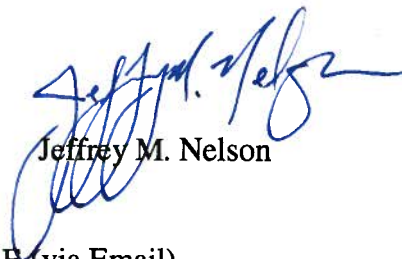
Second, and more importantly, SCE&G continues to rewrite history on ORS's prefiled witnesses. ORS has maintained since rebuttal testimony was filed that its prefiled witnesses include Ken Browne and Carlette Walker. SCE&G's real objection is not disruption or lack of notice but prejudice because of what these witnesses have revealed in deposition testimony, but it's not undue prejudice that should keep the Commission from hearing from ORS's two lead witnesses who are former SCE&G insiders and who have blown the whistle not just on the failures of the Project but also the deception toward the Commission during the critical time in 2015.

Nothing prevents a party from prefiling testimony that is in a more reliable form (deposition testimony) and which will be adopted by the witness just as unsworn prefiled testimony, and then these two witnesses will be called as witnesses if available by SCE&G just like the other prefiled witnesses. A summary of their testimony will be provided, and they will not disrupt the normal flow of prefiled witnesses—except that SCE&G does not like ORS calling them as some of the first witnesses.

ORS respectfully requests approval to call all the witnesses we identified as prefiled witnesses and for whom we provided prefiled testimony in the order we choose and not in the order or when SCE&G would prefer to hear them.

We look forward to the hearing beginning on Thursday, so the Commission can hear the testimony and decide the important issues.

Sincerely,



Jeffrey M. Nelson

cc: All Parties of Record in 2017-207-E (via Email)
All Parties of Record in 2017-305-E (via Email)
All Parties of Record in 2017-370-E (via Email)
Joseph Melchers, Esquire (via Email)